

UNITED STATES DISTRICT COURT
DISTRICT OF VERMONT

ETHEL KELLOGG,)	
)	
Plaintiff)	
)	
v.)	Case No. 2:07-cv-00082
)	
WYETH, Individually and as)	
Successor-In-Interest to A.H. ROBINS)	
COMPANY, INC. and AMERICAN HOME)	
PRODUCTS CORPORATION; SCHWARZ)	
PHARMA, INC.; ACTAVIS, INC.;)	
ACTAVIS-ELIZABETH, L.L.C.;)	
ALPHARMA, INC.; PUREPAC)	
PHARMACEUTICAL COMPANY, INC.;)	
TEVA PHARMACEUTICALS, USA, INC.;)	
BARR PHARMACEUTICALS, INC.;)	
PLIVA, INC.; and DRUG COMPANY)	
DOES 1 THROUGH 10, inclusive,)	
)	
Defendants)	

STIPULATED JOINT MOTION TO AMEND DISCOVERY SCHEDULE/ORDER

The parties met for Early Neutral Evaluation on December 10, 2009. Plaintiff and Defendant Teva Pharmaceuticals, USA, Inc. reached agreement to resolve this matter and Teva will be voluntarily dismissed. All remaining parties, by and through their respective counsel, and pursuant to Rule 16(b)(4) of the Federal Rules of Civil Procedure and Local Rule 26.1(b)(6), hereby jointly move to amend the Discovery Schedule/Order deadlines as set forth in the following Motion. In support, the parties state the following:

1. The parties worked diligently to complete written discovery such that they could proceed with depositions of key treating physicians, which were completed on Friday, November 20, 2009. Further, the deposition of Plaintiff is nearly completed. Written discovery efforts to

compile voluminous medical records of Plaintiff took longer than anticipated, which delayed the depositions of the treating physicians.

2. Plaintiff submitted written discovery to defendants which resulted in responses which plaintiff found insufficient. Plaintiff and Wyeth have met and conferred in an effort to narrow discovery disputes and it is anticipated that Wyeth will provide some supplemental responses in a good faith attempt to resolve the dispute. Plaintiff also served a notice of deposition pursuant to FRCP 30(b)(6) on Wyeth and scheduled a deposition for December 14, 2009, before the non-expert witness discovery deadline under the current scheduling order. Wyeth objected to the deposition notice as overly broad. Counsel for Plaintiff and Wyeth have met and conferred in an effort to reach agreement on the scope of examination. Plaintiff and Wyeth have proposed a 75 day extension of all discovery deadlines, deadlines for dispositive motions and the trial readiness date, while they attempt to resolve their disagreements concerning the scope of discovery and to allow an opportunity to request assistance from the Court in the event they cannot fully resolve their differences. The remaining parties have agreed to the requested extension of deadlines.

3. In light of the foregoing circumstances, Plaintiff was not be able to complete depositions of fact witnesses and parties before the current December 15, 2009 deadline and good cause exists to extend this and other deadlines in the existing Discovery Schedule/Order.

4. The parties do not seek these extensions for purposes of delay or for any other improper purpose. Pursuant to Local Rule 7.1(b), the parties have conferred and have come to agreement on the requested extensions.

WHEREFORE, the parties respectfully request that the Court grant this Motion and amend the Discovery Schedule/Order deadlines as follows:

1. Depositions of fact witnesses and Defendants shall be completed by March 2, 2010.

2. Plaintiff shall submit expert witness reports on or before March 24, 2010.
Depositions of Plaintiff's expert witnesses shall be completed by April 30, 2010.

3. Defendants shall submit expert witness reports on or before May 14, 2010.
Depositions of Defendants' expert witnesses shall be completed by June 29, 2010.

4. Motions, including summary judgment motions but excluding motions relating to the conduct of the trial, shall be filed on or before June 29, 2010.

5. Trial ready date August 2, 2010.

Dated: Burlington, Vermont
December 18, 2009

Dated: Bellevue, Washington
December 18, 2009

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Counsel for Plaintiff Ethel Kellogg

Dated: Washington, D.C.
December 18, 2009

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Counsel for Plaintiff Ethel Kellogg

Dated: Burlington, Vermont
December 18, 2009

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Dated: Denver, Colorado
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Counsel for Defendant Wyeth

Dated: Burlington, Vermont
December 18, 2009

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Counsel for Defendants Actavis, Inc.; Actavis-Elizabeth, LLC; Alpharma, Inc.; and Purpac Pharmaceutical Company, Inc.

Dated: Burlington, Vermont
December 18, 2009

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Dated: Cleveland, Ohio
December 18, 2009

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Dated: Boston, Massachusetts
December 18, 2009

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Counsel for Defendant Teva Pharmaceuticals, USA, Inc.

Dated: Burlington, Vermont
December 18, 2009

Dated: Cincinnati, Ohio
December 18, 2009

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